

AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions and listings of claims in the application:

LISTING OF CLAIMS:

1. (currently amended): A process for producing a transgenic plant which accumulates a fructooligosaccharide, comprising:

transforming a plant with a gene construct comprising a gene encoding β -fructofuranosidase capable of converting sucrose into a fructooligosaccharide,

wherein the gene encoding β -fructofuranosidase is derived from *Aspergillus niger*,

wherein the gene encoding β -fructofuranosidase is selected from the group consisting of:

(a) a gene consisting of the nucleotide sequence of SEQ ID NO: 1, and

(b) a gene comprising the nucleotide sequence of SEQ ID NO: 1,

~~(c) a gene comprising a nucleotide sequence in which one or plural nucleotides are deleted, substituted, or added in the nucleotide sequence of SEQ ID NO: 1, and encoding β -fructofuranosidase capable of converting sucrose into a fructooligosaccharide, and~~

~~—— (d) a gene comprising a nucleotide sequence having a 85% or more homology with that of SEQ ID NO: 1, and encoding β -fructofuranosidase capable of converting sucrose into a fructooligosaccharide, and~~

wherein the transgenic plant is *Nicotiana* sp., *Beta* sp. or *Saccharum* sp.

2-4. (canceled).

5. (previously presented): The process according to claim 1, wherein the gene construct comprises a gene which encodes β -fructofuranosidase and is operably linked to a constitutive promoter, an organ-specific promoter, or a developmental-specific promoter.

6. (original): The process according to claim 5, wherein the promoter is selected from the group consisting of:

- (i) a CaMV35S promoter,
- (ii) a sweet potato sporamin A promoter, and
- (iii) a sweet potato sporamin B promoter.

7-9. (canceled).

10. (previously presented): A transgenic plant produced by the process according to claim 1, or a progeny plant thereof.

11. (previously presented): A seed of the transgenic plant or progeny thereof according to claim 10, wherein the seed or progeny thereof comprises the gene construct.

12. (previously presented): A process for manufacturing a fructooligosaccharide, comprising:

- cultivating the transgenic plant or progeny thereof according to claim 10, and
- collecting a fructooligosaccharide accumulated in the plant body.

AMENDMENT UNDER 37 C.F.R. § 1.116
Application No.: 10/547,330

Attorney Docket No.: Q89815

13-20. (canceled).